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**Loudoun Supervisor  
James Burton fights  
rampant growth**



# Showdown in Loudoun

## Developers confront a smart-growth board



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Cover story



# Showdown in Loudoun

*Smart growthers battle developers as one of the country's fastest-growing counties tries to decide "how fast" and "how much"*

by Jack Milligan

photos by Mark Rhodes

**J**IM BURTON IS NOT THE KIND OF guy who backs down from a fight. Twenty years ago, as an Air Force lieutenant colonel overseeing weapons-testing programs at the Pentagon, he took on the military establishment over the then-controversial Bradley Fighting Vehicle, an armored troop carrier. He was instrumental in forcing important design changes in the Bradley that may have saved soldiers' lives in the Gulf War, but the battle cost him his career. Forced to retire in 1986, his experience was later dramatized in a 1998 HBO movie, "The Pentagon Wars."

Burton is fighting another war — this one for the future of Loudoun County in Northern Virginia. Burton is a member of Loudoun's Board of Supervisors and chairman of its finance committee. In January the board approved a sweeping revision of the county's zoning ordinance in a dramatic — and controversial — effort to bring its runaway growth under control. Basically the change restricts development on two-thirds of the county's most rural land. The slight, bespectacled Burton has helped lead the charge by arguing loudly that the county can no longer afford to keep pace with the new schools and expansion

of essential services that fast growth demands.

Loudoun is the second-fastest-growing county in the country. But according to Burton and an overwhelming majority of Loudoun's nine-member board, that growth has put the county deep into debt and is driving up property taxes as it struggles to provide vital services for its new residents. Also at risk is the bucolic beauty of the county's western end, with its rolling hills, winding roads and open fields that extend all the way to the Blue Ridge.

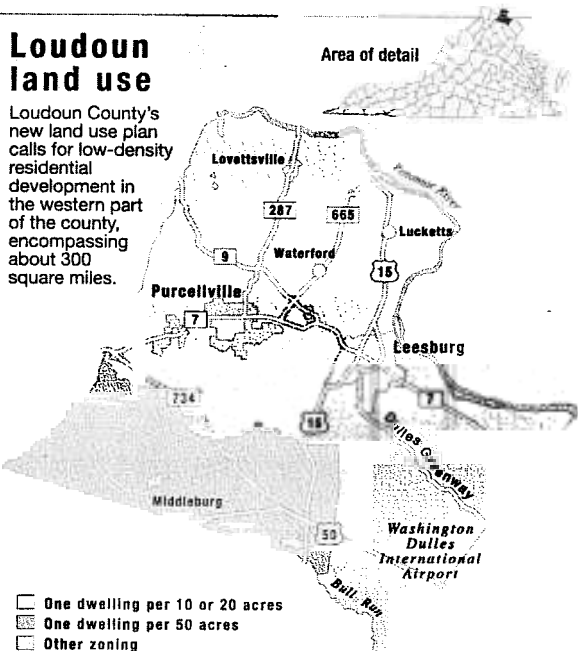
The reaction to Loudoun's rezoning has been swift and sharp. Nearly 200 lawsuits



*Bucolic vs. bustling. The fight is over how many units to build on how much land.*

## Loudoun land use

Loudoun County's new land use plan calls for low-density residential development in the western part of the county, encompassing about 300 square miles.



Graphic by Chris O'Brien

Indeed, Loudoun County is the epicenter of a high-stakes land war that may determine the shape and character of Virginia communities for years to come. Certainly it is a battle over money — development corporations seeking to protect their commercial interests in Loudoun filed most of the lawsuits. But it is also a contest that may greatly influence how Virginia grows and where people will live in years to come. If growth is the irresistible force, then Loudoun has positioned itself as the immovable object, and its fate could spell out the future of many fast-growing suburban areas throughout Virginia. The battle is being watched closely by other high-growth counties across the state who are suffering similar pressures, says James D. Campbell, executive director of the Virginia Association of Counties. "We're going to be watching how the courts react," he says. "The question is, will the courts recognize the local legislative prerogative that a governing body has through its zoning ordinances?"

On a sunny day in early March, with several inches of snow still blanketing the ground from a recent storm, Burton drove two visitors down back country roads in western Loudoun as he delightedly told stories about the area's rich heritage. Burton moved here after leaving the Air Force, and lives in a restored 19th-century house that's listed on the National Registry of Historic Places.

He clearly loves this part of Loudoun and worries that much of it could disappear if residential development continues unchecked. Due in large measure to a powerful Northern Virginia economy, Loudoun has grown like the vine in Jack and the Beanstalk — its population soaring from less than 100,000 in 1990 to an estimated 206,000 today. The county projects that its population will continue to climb, exceeding 250,000 by 2006. As neighboring Fairfax County to the east became more crowded and less affordable, the availability of cheap land drove the demand for housing in Loudoun. The county also succeeded in luring two large New Economy employers — America Online and WorldCom — which further fueled the demand for new homes.

Early on, county officials were happy to make room for all the newcomers as a slew of new residential developments sprang up on fields and pastures that once serviced a largely agrarian economy. Loudoun has added approximately 34,000 new homes since 1995 and has a backlog of another 32,000 or so approved residential units yet to come.



have been filed against the county, pitting an angry coalition of large corporations, developers and landowners against Burton and a majority of his colleagues on the nine-member board of supervisors — eight of whom ran for election in 1998 on pledges to curb housing growth. The local Republican Party has been actively recruiting pro-growth candidates to oppose Burton and his slow-growth allies — comprised of Democrats,

Republicans and Independents like himself — when the entire board stands for reelection this fall. "The smart growth crowd is not interested in people," says John T. "Til" Hazel, Jr., a partner in the Washington, D.C.-based law firm of Reed Smith and a former developer. He believes that the real agenda of Burton and his slow-growth allies is to "shut the region down." Says Hazel: "They want to keep people out."

By the mid-1990s, environmental groups like the Piedmont Environmental Council and elected officials like Burton were becoming alarmed by the county's rate of growth. All nine board seats in Loudoun come up for reelection at the same time, and in 1998 eight of the candidates ran on promises to rein in the county's galloping housing market. In 2001, the board amended Loudoun's comprehensive land-use plan to restrict development in a 200,000-acre section of western Loudoun that accounts for about two-thirds of the entire county. And in January seven of the supervisors voted to revise Loudoun's zoning ordinance to make the new restrictions the law of the land.

Under the previous plan, zoning in much of western Loudoun would have allowed one house per three acres. Now, the southwestern part of the county is zoned for one house per 50 acres, while northwest Loudoun is zoned for one house per 20 acres. Developers have maneuvered to allow cluster houses on smaller lots surrounded by lots of green space that may be approved for a density of one house per 10 acres. The county's comprehensive plan also encourages small-scale business enterprises in this western region — including inns, wineries, nurseries and country retreats — to preserve and nurture its rural character. "We want to put an emphasis on growing that rural economy," says County Planning Director Julie Pastor.

The primary purpose of the new zoning plan is simple — wall off western Loudoun from the suburban sprawl that has consumed much of the county's eastern side. The new plan also encourages using "smart growth" principles there, such as mixed-use developments and increased residential density. Lastly, a new set of countywide environmental rules prevent building near streams, marshes and low-lying land.

Downzoning two-thirds of the county was a drastic measure, to be sure. But the board felt it had to act because of the effect rapid growth was having on the community. Vice-Chairman Eleanor Towe, who represents parts of western Loudoun and voted for the rezoning, says many people there worried that continued development would overwhelm the narrow, winding country roads they cherish. "We don't want the Virginia Department of Transportation cutting down trees and widening roads," she says.

Burton, likewise, complains about the clash of rural and suburban cultures in Loudoun, between the great massed subdivi-



**Since 1995, 34,000 new homes have gone up in Loudoun County.**

sions in eastern Loudoun and the farmers, equestrians, urban refugees and old-timers to the west. "There's a social upheaval associated with rapid growth," he says.

But the ramifications of such rapid growth have gone well beyond culture and aesthetics. It has also played hell with the county's finances. Since the current board took office in January 2000, the county has built 16 new schools at a cost of \$364 million and hired 922 teachers, along with many more deputies and fire and rescue personnel. Another 12 schools will have to be built over the next six years just to handle students from the new housing developments the county has already approved.

It is the residential growth that hurts the county's finances the most because it forces the expansion of the school system, mostly at local expense. Burton estimates that a home in Loudoun doesn't cover its share of county services until its assessed value reaches approximately \$600,000. The break-even point in 1999 was \$427,000. The only way Loudoun could afford to finance all those new schools was to raise money in the bond market. But borrowing has its price, and the county's annual debt service has ballooned to \$85.5 million. To put that into perspective, consider that Loudoun's entire operating budget in 1996 was just \$86 million, whereas today it has grown to well over \$700 million a year.

As one might expect under these circumstances, Loudoun's property taxes have been shooting upward as well. The average tax increase was 22 percent in 2001 and 14.7 percent in 2002 — resulting in an average annual tax bill of \$2,689 compared to \$1,550 in

1994. Burton hopes the county can limit the tax hike this year to just 15 percent, although he says that won't be easy because the county's costs are still climbing.

Burton and other supporters of a managed growth policy say the county can't afford to suburbanize at such a rapid rate. "One problem has been the speed at which it has come," says Towe. "We can't keep up." She partly faults "out-of-town developers" whose opposition to the zoning changes are motivated by their own economic self-interest. "They'd love to build wall-to-wall houses and leave us with the bill," she says.

Developers argue that the county is ignoring the importance of affordable housing. A recent study by George Mason University, paid for by the housing industry, concluded that the greater Washington area had a housing deficit of nearly 8,000 units in 2000 — and forecast this shortfall to grow exponentially as the region's economy expands unless local governments permit more building. A recent article in *The Washington Post* also concluded that land-use restrictions in 14 Maryland and Northern Virginia counties that were intended to protect rural areas were triggering suburban sprawl by forcing people to move further out from the Washington area in search of affordable housing. "This will lead to significantly higher-cost housing and more sprawl in other parts of the state," says Michael L. Toalson, executive vice president of the Home Builders Association of Virginia. Among those people hurt by Loudoun's downzoning were individual landowners who hoped to one day develop their property, though Burton says that most



of the suits were filed by large developers. The big development corporations which own land in Loudoun will at least see the value of their holdings skyrocket thanks to government-mandated scarcity. "If you've got a building lot in Loudoun County, you've got a gold mine," says Hazel.

But that could be bad news for smaller developers like Mike Gorman, president of Oak Ridge Inc. in Leesburg. "They're driving the small homebuilder out of the market," he says. "The small builders are going to find that it's harder to purchase land." An even bigger loser may be the thousands of middle-class families who might be priced out of the market. Gorman points to an average new home price today in Loudoun of \$360,000 and says many middle-class families can't afford that.

Critics of the Loudoun rezoning contend that capping the growth of new housing in Loudoun puts the economy of the entire state at risk. "If you take Northern Virginia

off the map, you've taken the entire state off the [map]," Toalson says. Companies that might come to Northern Virginia will look elsewhere if the cost of living there is too

my underscores the stake that state lawmakers have in Loudoun's zoning fight. Yet one reason the Loudoun board used the blunt instrument of rezoning is because state law-

makers have resolutely refused to give localities other tools to manage growth. In recent years, a parade of elected officials from Virginia counties have asked the state legislature for so-called adequate public facilities measures that would either permit them to limit the rate of growth in residential housing to their ability to fund the necessary infrastructure improvements, or to allow developers to help fund the improvements if they don't want to wait. A handful of public facilities bills introduced this year in the Virginia Senate and House of Delegates went nowhere.

Burton, who has testified before a House of Delegates subcommittee on the importance of adequate public facilities legislation, says that he resisted the rezoning option for several years in hopes of getting

### Critics say Loudoun's new low-density zoning:

- Will drive housing costs up and hurt business recruitment
- Unfairly takes property values away from landowners
- Will mean longer commutes and higher road spending

### Supporters say the county's plan:

- Will slow spending on new schools
- Protects rural areas from uncontrolled sprawl
- Is a proper use of a legal land-use power

high. "They're not going to relocate to Richmond. They're not going to look at Danville. They're going to Raleigh. They're going to Atlanta."

The potential impact on the state econo-

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**Construction workers roof new housing units.**

more tools from the General Assembly. But Burton and others say state lawmakers advised them to use their zoning authority. "The [Loudoun] Board of Supervisors did what the legislature dared them to do — use the tools available to them," says Peggy Maio, Loudoun County field officer for the

Piedmont Environmental Council.

For his part, Toalson's group also has opposed adequate public facilities laws. "The 25 fastest-growing localities in the state would grind to a halt if those slow-growth measures were ever passed," he says. "The housing industry, according to people

like [Federal Reserve Chairman] Alan Greenspan, has helped keep the economy from falling into a recession these last two years."

One remedy that Burton and Toalson might both support would be some type of tax reform on the state level that would lessen the dependence of local communities on property taxes, thereby easing the financial impact of high growth. But tax reform hasn't gone anywhere in Richmond in recent years either, and given the state's ongoing fiscal crisis, it probably won't anytime soon. Virginia communities lack even the authority to impose special local taxes without the state legislature's permission. "If we want to impose a cigarette tax in Loudoun County we should be able to do it," Burton says.

Backed into a corner, Loudoun's leaders are ready to fight, Burton says. The county has set aside \$6 million to cover the costs of defending its zoning laws. "We're committed to spending whatever it takes to win these cases, because if we lose, the whole state loses." He predicts some of the lawsuits will ultimately end up before the

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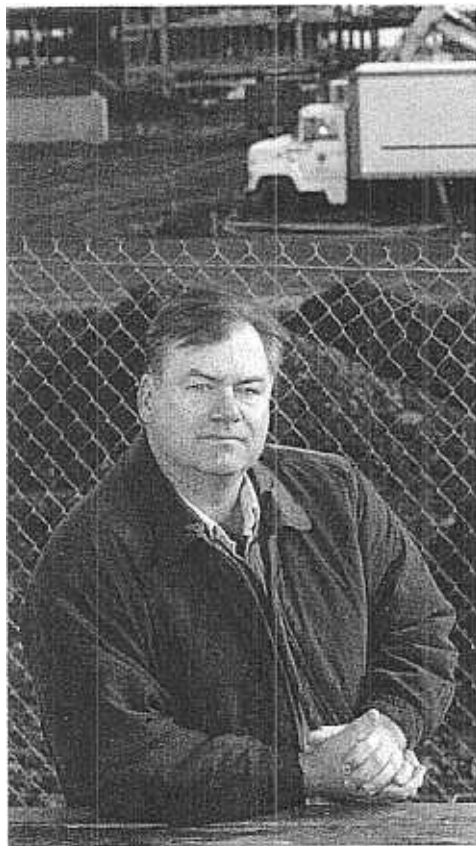
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Virginia Supreme Court.

That assumes, of course, that a new board doesn't rescind the zoning changes long before then. This fall's election could be pivotal with the local Republican Party busy recruiting candidates with avowed pro-growth agendas. Board of Supervisors' Chairman Scott York, a Republican whose strong advocacy in favor of the rezoning measure cost him the support of his local party, is running as an Independent. Towe has decided not to run for a third term, while another supervisor who voted for the rezoning has decided to run for the state Senate.



**Board of Supervisors' Chairman Scott York's advocacy of the rezoning measure cost him the support of his local Republicans.**

Burton is running for reelection as well, and he believes the current board is only following the wishes of Loudoun voters who three and a half years ago overwhelmingly elected supervisors who favored slow-growth policies. This fall's election will be a referendum on what that board has done, he says. "It is going to be the election issue. If they want to go back to unbridled growth, they'll elect people who are pro-growth. And we'll be back to the races."



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